



HOUSE COMMITTEE ON
NATURAL RESOURCES
CHAIRMAN BRUCE WESTERMAN

To: House Committee on Natural Resources Republican Members
From: Natural Resources Committee Republican Staff; Taylor Wiseman –
Taylor.Wiseman@mail.house.gov, x6-7736
Date: Thursday, June 15, 2023
Subject: Legislative Hearing on H.R. 3397 (Rep. Curtis)

The Committee on Natural Resources will hold a legislative hearing on H.R. 3397 (Rep. Curtis), to require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health, on **Thursday, June 15 at 9:00 a.m.** in room 1324 Longworth House Office Building.

Member offices are requested to notify Sophia Varnasidis (sophia@mail.house.gov) by 4:30 p.m. on Tuesday, June 13, if their Member intends to participate in the hearing.

I. KEY MESSAGES

- The Bureau of Land Management's (BLM) proposed Conservation and Landscape Health Rule (Rule) is a seismic shift in public land management that will fundamentally upend the agency's multiple use mandate, which has guided land management practices for nearly 50 years.
- The Western way of life depends on responsible use and development of our public lands. Thousands of rural economies depend on access to BLM lands for energy and mineral development, recreation, grazing, timber production, and enjoyment. This Rule presents a fundamental threat to rural communities across the West.
- Under the guise of conservation, the Biden administration is using this Rule to further its preservationist agenda. This Rule is nothing more than a thinly veiled attempt to lock up more lands to advance radical goals like the administration's 30x30 agenda.
- The Governors of South Dakota and Wyoming will testify at this hearing to amplify the voices of rural communities and concerned stakeholders the BLM has been willfully ignoring.
- H.R. 3397 amplifies the concern expressed by states across the West and will protect the BLM's multiple use and sustained yield mandate.

II. WITNESSES

Panel I (*Bill Sponsor*):

- **The Honorable John Curtis**, Utah’s 3rd Congressional District

Panel II (*State Elected Officials*):

- **The Honorable Kristi Noem**, Governor of South Dakota
- **The Honorable Mark Gordon**, Governor of Wyoming

Panel III (*Administration and Non-Government Outside Witnesses*):

- **The Honorable Nada Wolff Culver**, Principal Deputy Director, Bureau of Land Management, Washington, D.C.
- **Ms. Kathleen Sgamma**, President, Western Energy Alliance, Denver, Colorado
- **Ms. Kathy Chandler-Henry**, Board Chair, Eagle County Board of Commissioners, Eagle, Colorado [*Minority Witness*]

III. BACKGROUND

Overview of BLM’s Conservation and Landscape Health Rule

The Bureau of Land Management (BLM) manages 244 million acres of public lands, heavily concentrated (99 percent) in the eleven western continental states and Alaska, and 714 million acres of federal subsurface mineral estate.¹ Under the BLM’s enabling statute, the Federal Land Policy and Management Act of 1976 (FLPMA, pronounced *flip-ma*), BLM’s mission is sustained yields of the multiple uses, also known as the multiple-use mandate, including livestock grazing, energy and mineral development, recreation, timber production, watershed protection, and wildlife and fish habitat.² According to section 103 of FLPMA:

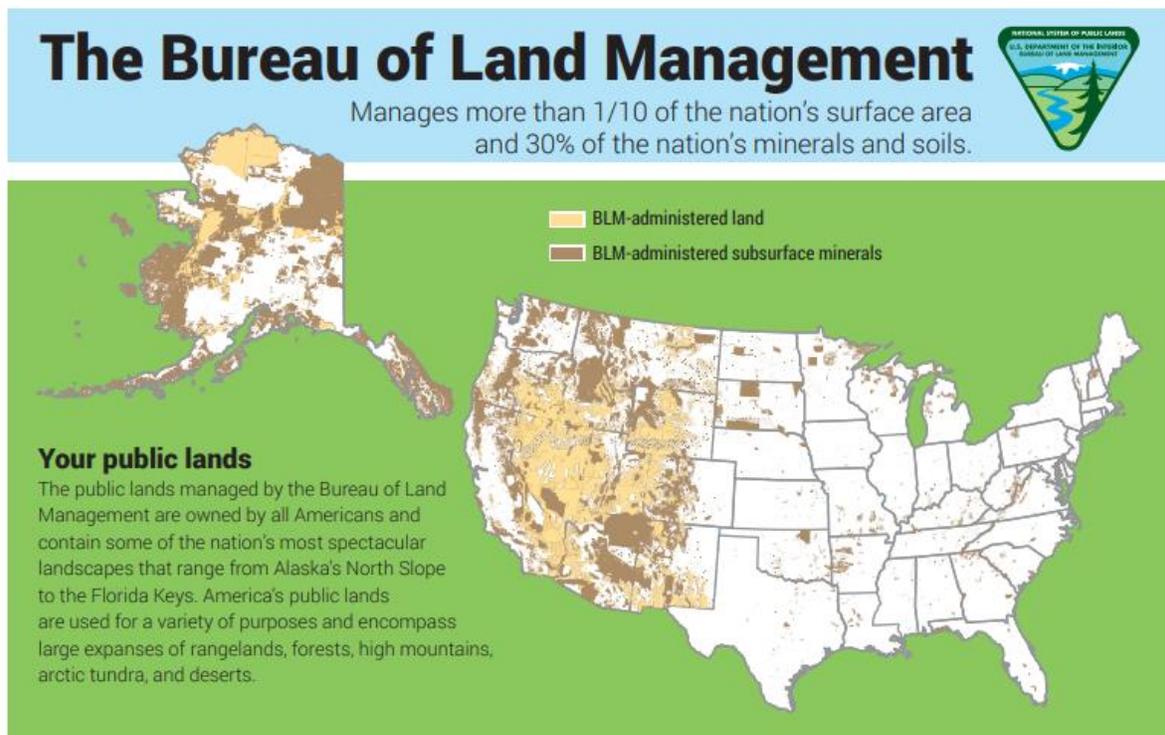
“The term ‘**multiple use**’ means the management of the public lands and their various resource values so that they are utilized to the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the longterm needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.”

¹ Federal Lands and Related Resources: Overview and Selected Issues for the 118th Congress, Congressional Research Service, February 24, 2023, <https://www.crs.gov/Reports/R43429>.

² *Id.*

“The term ‘**sustained yield**’ means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.”³

Often these uses overlap on BLM land and co-exist with each other. Meaningful conservation work continues to occur simultaneously with, and often to the benefit of, these other uses. Responsible uses of BLM lands are central to the Western way of life. Many rural economies thrive on the uses of BLM lands. BLM estimated in fiscal year (FY) 2021, programs administered on lands managed by the BLM supported an estimated \$201 billion in economic output and approximately 783,000 jobs.⁴ BLM lands and their multiple uses currently support more jobs than the entire populations of each Alaska, North Dakota, and Wyoming.⁵ If the uses of public lands are prohibited, family and small businesses, multi-generation ranches, local communities, and schools will suffer from lack of economic development, access, and tax revenue.



Source: Bureau of Land Management, 2016.

On April 3, 2023, the BLM published in the Federal Register a proposed rule, “Conservation and Landscape Health,” (“Rule”) with a 75-day comment period.⁶ The Rule would broadly allow the BLM to lease lands under new and vaguely defined conservation leases, incorporate new

³ Federal Land Policy and Management Act, 43 U.S.C. §§1701-1785. Emphasis added.

⁴ Statement of Tracy Stone-Manning, Director of Bureau of Land Management before Subcommittee on Energy and Mineral Resources, May 16, 2023, https://naturalresources.house.gov/uploadedfiles/testimony_stone-manning.pdf.

⁵ State by State List, United States Census Bureau, Accessed June 6, 2023, <https://www.census.gov/library/stories/promote-content/state-by-state-list.html>.

⁶ Federal Register, Conservation and Landscape Health, Proposed Rule, RIN 1004-AE92, Bureau of Land Management, Department of the Interior, April 3, 2023.

standards when evaluating traditional multiple use decisions, expedite designations of new Areas of Critical Environmental Concern (ACECs), and apply land health standards to all public lands. The administration’s proposal would have considerable implications, fundamentally changing the way the BLM carries out its multiple use and sustained yield mandate under FLPMA.⁷ To justify the need for such a Rule, the BLM states public lands are “increasingly degraded and fragmented due to adverse impacts from climate change and a significant increase in authorized use,” although no data is provided to support these assertions.⁸

Overall, the Rule poses many concerns. Citing increases in “authorized uses” currently happening on BLM lands suggests the intent of this Rule is to fundamentally disrupt the balance of multiple use. This also appears to be an attempt to further the administration’s flawed 30x30 agenda, which seeks to preserve 30 percent of lands and waters by 2030. By developing conservation leases, increasing ACECs, applying land health standards to all public lands, many stakeholders and Members of Congress are rightfully concerned this is yet another attempt by this administration to end multiple use on our public lands. Further explanations of key aspects of the rule are as follows.

Conservation Leasing

One of the greatest concerns is the Rule would fundamentally change the way the BLM carries out its multiple use and sustained yield mandates by elevating conservation as a “use” within FLPMA, bypassing Congressional authority. BLM would pursue this through so-called 10-year “conservation leases” to address “restoration of degraded landscapes.”⁹ According to BLM, “[u]nder a conservation lease, an external entity could propose to enter into an agreement with the BLM to help achieve restoration or mitigation outcomes on public lands.”¹⁰ The Rule attempts to define conservation as “maintaining resilient, functioning ecosystems by protecting or restoring natural habitats and ecological functions” and will include both protection and restoration activities.¹¹

The BLM has been vague about what uses could potentially be compatible with “conservation” under their definition and considered permissible under a conservation lease. In supporting documents released by BLM, the agency has stated: “Appropriate places for conservation leasing on public lands would include degraded habitats in need of restoration, as well as intact landscapes and functioning ecosystems that can serve as compensatory mitigation for a particular action.”¹² The references in this explanation to intact landscapes are particularly concerning, as an entity could theoretically lease land suitable for timber production and stop actively managing that land under the guise of maintaining an “intact landscape.” Under this example, this type of conservation lease would not only lead to large landscapes being locked up from management

⁷ Federal Land Policy and Management Act, 43 U.S.C. §§1701-1785.

⁸ Federal Register, Conservation and Landscape Health, Proposed Rule, RIN 1004-AE92, Bureau of Land Management, Department of the Interior, April 3, 2023.

⁹ *Id.*

¹⁰ BLM, “FACT SHEET: Proposed Public Lands Rule,” <https://www.blm.gov/sites/default/files/docs/2023-04/Public%20Lands%20Rule%20Fact%20Sheet.pdf>.

¹¹ *Id.*

¹² BLM, “Frequently Asked Questions: Conservation Leasing in Proposed Public Lands Rule,” <https://www.blm.gov/sites/default/files/docs/2023-05/Conservation%20Leasing%20fact%20sheet%205-11-23.pdf>.

but could in fact lead to further degradation of landscapes due to threats like wildfire, insects, drought, and disease.

Conservation leases could also lead to a reduction in public access to BLM lands. The Rule states that: “the existence of a conservation lease would not in and of itself preclude the public from accessing public lands for noncommercial activities such as recreation.”¹³ However, this definition is in itself limiting because many members of the public access federal lands through commercial outfitting and guiding services, which would by definition be excluded. This could have devastating effects on the outdoor recreation economy, which heavily depends on outfitters and guides. Furthermore, the Rule states that “lands could be temporarily closed to public access for purposes authorized by conservation leases, such as restoration activities or habitat improvements.”¹⁴ The Rule is silent on how long these closures could last, meaning that the public could theoretically be blocked from accessing an area under a conservation lease for the majority or entirety of the lease’s 10-year term.

Concerningly, the BLM Rule has two statements contradicting each other. The proposal says conservation leases are “not intended to provide a mechanism for precluding other uses, such as grazing, mining and recreation. Conservation leases should not disturb existing authorizations, valid existing rights, or state or Tribal land use management.”¹⁵ The proposal also says once a lease has been issued, the “BLM shall not authorize any other uses of the leased lands that are inconsistent with the authorized conservation use.”¹⁶ Conservation leases could potentially prevent access to federal land for current and future BLM permittees. If the administration determines other uses, such as grazing, energy production, or recreation, are incompatible with a conservation lease, those uses would not be allowed and could be prohibited indefinitely from those lands, even after the expiration of a conservation lease. This would effectively lock up those lands indefinitely from multiple use, including potential historic uses of the land.

The BLM’s Rule may result in the agency requiring any use or permitted activity to be offset by a separate conservation lease. While the agency contends the Rule simply provides another tool to mitigate potential impacts of certain uses, when implemented it could effectively become a requirement for any user of BLM lands to offset their impacts with a conservation lease. If so, this would have a significant impact on all entities that utilize federal lands. Additionally, the Rule poses a question to the public on whether or not conservation leases should be offered to generate carbon offset credits. If the BLM moves in this direction, it could result in all projects on federal lands being required to not only offset their surface disturbance, but also any emissions. It is unclear what legal authority the BLM has to create any type of carbon offset bank or credit under FLPMA.

Furthermore, it is unclear whether the concept of conservation leases could require wholesale re-writes of existing Resource Management Plans (RMPs). RMPs are developed for all BLM land based on identified landscapes. RMPs serve as a blueprint for the land, including the uses identified suitable for the land and what leases are to be offered. To develop an RMP, the agency

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

has an extensive public comment and engagement period and allows local, county, state, and Tribal governments to serve as cooperators.¹⁷ RMPs begin with a public scoping process, consist of an environmental impact statement under the National Environmental Policy Act (NEPA),¹⁸ include a 90-day comment period, and, once drafted, are open to a 30-day protest period.¹⁹ It is unclear how offering conservation leases will interface with RMPs. BLM staff have stated the new Rule does not require updating RMPs.²⁰ If BLM staff interpretation holds, and RMPs are not updated to incorporate conservation as a use, BLM would fundamentally be acting inconsistently with their own science and planning guidance.

Areas of Critical Environmental Concern

Another key aspect of the Rule would revise existing regulations to better prioritize designating ACECs. BLM defines ACECs as “areas where special management attention is needed to protect important historic, cultural, and scenic values, fish, or wildlife resources, or other natural systems or processes, or to protect human life and safety from natural hazards.”²¹ Once designated, these areas require special management to “protect and prevent irreparable damage.”²² In practice, this can lead to significant restrictions on multiple use consistent with other restrictive land-use designations such as wilderness areas, wilderness study areas, and national monuments. Over 23.5 million acres have been designated in 1,093 ACECs across the country.²³ Together, these restrictive designations total approximately 196.6 million acres across all federal lands:

Designation	Authorizing Entity	Acres
Areas of Critical Environmental Concern ²⁴	BLM	23.5 million
Wilderness ²⁵	Congress	110 million
National Monuments ²⁶	President or Congress	17 million
Wilderness Study Areas ²⁷	President or Congress	11.1 million
National Conservation Areas ²⁸	Congress	35 million

¹⁷ Planning and NEPA, Bureau of Land Management, Accessed June 7, 2023, <https://www.blm.gov/programs/planning-and-nepa>.

¹⁸ 40 CFR 1508.1, <https://www.ecfr.gov/current/title-40/chapter-V/subchapter-A/part-1508#1508.1>.

¹⁹ How Plans Are Developed, Bureau of Land Management, Accessed June 7, 2023, <https://www.blm.gov/programs/planning-and-nepa/planning-101/how-plans-are-developed>.

²⁰ Briefing provided by BLM staff to HNRC staff.

²¹ *Id.*

²² Federal Land Designations: A Brief Guide, Congressional Research Service, May 19, 2023, <https://www.crs.gov/Reports/R45340>.

²³ BLM National Data, BLM-EGIS, Accessed June 6, 2023, <https://blm-egis.maps.arcgis.com/apps/webappviewer/index.html?id=6f0da4c7931440a8a80bfe20eddd7550>.

²⁴ *Id.*

²⁵ America’s Public Lands Explained, U.S. Department of Interior, January 31, 2023, <https://www.doi.gov/blog/americas-public-lands-explained>.

²⁶ Information provided by Congressional Research Service, June 9, 2023, on file with the Committee.

²⁷ Wilderness and Wilderness Study Areas, Bureau of Land Management, Accessed June 7, 2023, <https://www.blm.gov/programs/national-conservation-lands/wilderness>.

²⁸ National Conservation Lands, Bureau of Land Management, Accessed June 7, 2023, <https://www.blm.gov/programs/national-conservation-lands>.

In addition to these land-use designations, the President can withdraw lands from mineral and energy development for 20 years under section 204 of FLPMA.²⁹ This year alone, President Biden has withdrawn over half a million acres in Minnesota,³⁰ Nevada,³¹ Alaska,³² and New Mexico³³ collectively from mineral and energy development and has proposed to withdraw roughly 225,000 acres in Colorado.³⁴ The combination of these tools has given the Biden administration unprecedented abilities to wage a war on American energy and mineral development and multiple use.

There are significant concerns that this Rule could also allow the administration to lock up lands in ACECs without public awareness or stakeholder input. Currently, ACECs can be nominated by anyone, including the BLM, who believes an area is significant enough to warrant such designation. The agency's website says these nominations are then "evaluated through... extensive public involvement," yet the Rule removes the requirement to publish the opportunity for comment in the Federal Register.³⁵ Communities closest to these lands deserve to know whether they are being locked up in ACECs, and this Rule removes a critical tool Western, rural communities have in protecting multiple uses in their backyard.

Land Health Standards and Guidelines

The Rule would also apply land health standards to all BLM managed public lands and uses. Land health standards are based on four fundamentals of: watershed function, ecological processes, water quality, and wildlife habitat.³⁶ An authorized officer would track progress towards restoration goals based on the standards and guidelines.³⁷ Currently land health standards only apply to grazing authorizations. These standards are often weaponized against ranchers, with opponents of grazing using that information to blame grazing for degrading land

²⁹ *Id.*

³⁰ Public Land Order No. 7917 for Withdrawal of Federal Lands; Cook, Lake, and Saint Louis Counties, MN, Federal Register, January 31, 2023, <https://www.federalregister.gov/d/2023-01969>.

³¹ Public Land Order No. 7921; Withdrawal of Public Land for Satellite Calibration in Railroad Valley; Nye County, Nevada, Federal Register, April 27, 2023, <https://www.federalregister.gov/d/2023-08916>.

³² Public Land Order No. 7922; Mendenhall Glacier Recreation Area; Alaska, Federal Register, June 2, 2023, <https://www.federalregister.gov/d/2023-11783>.

³³ Public Land Order No. 7923 for Public Lands Withdrawal surrounding Chaco Culture National Historical Park Boundary; San Juan, Sandoval, and McKinley Counties, New Mexico, Department of the Interior, June 2, 2023, <https://www.doi.gov/sites/doi.gov/files/plo-chaco-fr-notice-6.2.23-508.pdf>.

³⁴ Notice of Proposed Withdrawal and Public Meeting, Thompson Divide Area, Colorado, Federal Register, October 17, 2022, <https://www.federalregister.gov/documents/2022/10/17/2022-22448/notice-of-proposed-withdrawal-and-public-meeting-thompson-divide-area-colorado#:~:text=The%20withdrawal%20is%20proposed%20for,Thompson%20Divide%20Area%20of%20Colorado>.

³⁵ Areas of Critical Environmental Concern (ACECs), Bureau of Land Management, Accessed on June 1, 2023, <https://www.blm.gov/programs/planning-and-nepa/planning-101/special-planning-designations/acec>.

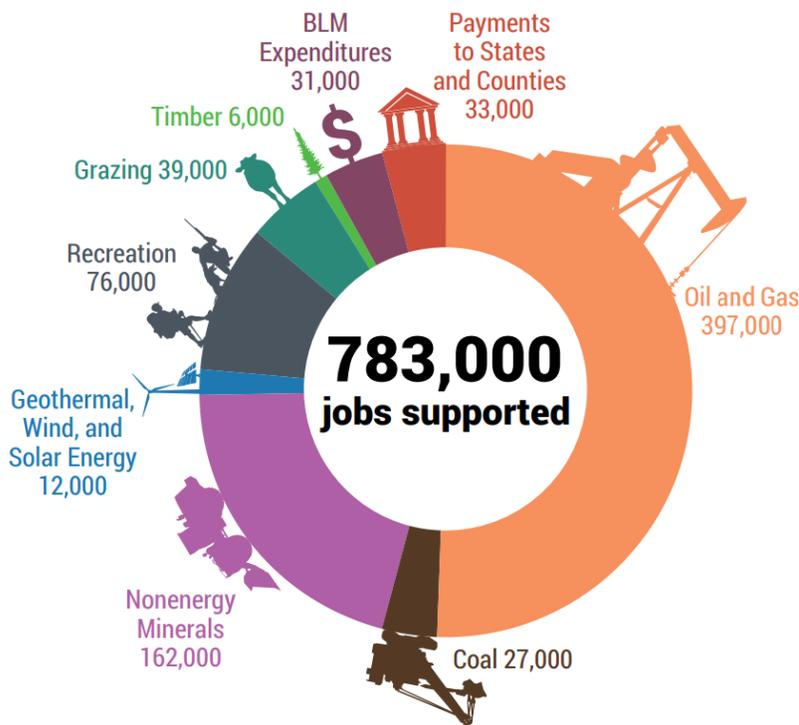
³⁶ 43 CFR 4180.1 (2005), <https://www.ecfr.gov/current/title-43/subtitle-B/chapter-II/subchapter-D/part-4100/subpart-4180/section-4180.1>.

³⁷ Federal Register, Conservation and Landscape Health, Proposed Rule, RIN 1004-AE92, Bureau of Land Management, Department of the Interior, April 3, 2023.

conditions.³⁸ Similarly, these land health standards could be weaponized against other uses including energy and mineral development.

While the BLM has justified these new standards in its Rule as ways to adhere to science, the Federal Register notice suggests that the agency is planning to implement this Rule in an inherently unscientific manner. For example, the BLM is seeking comments as part of the Rule on how the agency should potentially alter the management of old and mature forests. The BLM recently released a report on old growth and mature forests with the Forest Service that sought to inventory old growth and “mature forests,” despite the fact that there is no clear definition of what constitutes old growth and mature forests, and mature forests are not a recognized term in the scientific practice of forestry.³⁹ Similar to other provisions contained within the Rule, there are significant concerns that this question, which is only covered by a few disparate sentences within the proposed Rule, could be used in the future to restrict active forest management on BLM lands where the agency has identified the presence of “old growth and mature forests.”

Unanswered Questions about the Rule



Source: BLM, 2022.

Clear answers are needed from BLM on the agency’s intent and implementation of the Rule as drafted. The Rule has garnered a lot of interest, and currently has over 86,000 submitted public comments.⁴⁰ The comment period ends on June 20, 2023. Committee Republicans continue to hear concerns about the Rule from a wide range of stakeholders, including those who engage in grazing, recreation, energy development, mining, and timber, among others, on BLM lands. The Rule creates additional uncertainty among America’s businesses and

³⁸ There are millions of acres of ‘failing’ rangelands, data shows, High Country News, March 14, 2022, <https://www.hcn.org/issues/54.5/north-bureau-of-land-management-there-are-millions-of-acres-of-failing-rangelands-data-shows>.

³⁹ Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management, April 2023, <https://www.fs.usda.gov/sites/default/files/mature-and-old-growth-forests-tech.pdf>.

⁴⁰ Conservation and Landscape Health, Regulations.gov, Accessed June 9, 2023, <https://www.regulations.gov/document/BLM-2023-0001-0001>.

rural economies, and, if finalized, could be weaponized to lock up more land from any access under the guise of “conservation.”

Economic Analysis

In addition to lessees, over half of the United States population lives within 100 miles of BLM managed land.⁴¹ Despite the well-documented economic impact of permittees and users of BLM land, the BLM has asserted that “the proposed rule would not have a significant effect on the economy,” without any supporting documentation.⁴² For rules to be deemed “economically significant” they must have an impact of more than \$100 million per year on the national economy. The Administrator of the Office of Information and Regulatory Affairs (OIRA) within the Office of Management and Budget, typically makes the determination of whether a rule is economically significant, although supporting information would have been submitted by BLM. For economically significant rules and regulations, the agency is required to publish a more detailed cost and benefit analysis in addition to reasonable alternatives to the proposed rule.⁴³ By failing to determine this Rule as economically significant, the BLM will not have to publish information about any negative effects on rural jobs and economies, concealing its true cost from the public and concerned stakeholders. At a recent committee hearing, Members from both sides of the aisle raised concern over the determination the Rule was not deemed economically significant.⁴⁴

Unanswered Questions

After multiple hearings, questions, and briefings provided by BLM staff to Committee staff, there are still many unanswered questions about the implementation of such a Rule. BLM can neither provide clear answers to how conservation leases would be developed or if other multiple uses could occur with conservation leases, nor could they provide direction on how conservation leases would impact RMPs or interact with current leases and leaseholders.⁴⁵ Other unanswered questions include:

- How does the BLM statutorily justify the addition of a “conservation lease” and giving this designation an equal standing as other uses defined within FLPMA while maintaining the requirements of FLPMA’s multiple-use and sustained-yield framework?

⁴¹ President’s Proposed \$1.7 billion Budget for BLM Provides Investments Toward Achieving Climate and Economic Goals While Working with Communities, Bureau of Land Management, March 9, 2023, <https://www.blm.gov/press-release/presidents-proposed-1-7-billion-budget-blm-provides-investments-toward-achieving>.

⁴² *Id.*

⁴³ Regulations and the Rulemaking Process, Reginfo.gov, Accessed on June 2, 2023, <https://www.reginfo.gov/public/jsp/Utilities/faq.jsp#:~:text=A%20regulatory%20action%20is%20determined%20to%20be%20%22economically%20significant%22%20if,environment%2C%20public%20health%20or%20safety%20>

⁴⁴ Examining the President’s FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement, House Natural Resources Committee, May 16, 2023, <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413205>. Specifically see comments from Representatives Lee and Gosar.

⁴⁵ BLM Staff Briefings provided to Committee Staff, Notes on file with Committee, April 12 and May 5, 2023.

- What are examples of activities or uses consistent with a conservation lease? What would not be considered consistent with a conservation lease?
- How will the BLM evaluate and manage the conservation efforts laid out in the proposed rule?
- What is an intact landscape and how will the BLM prioritize them as the Rule suggests?
- After an intact landscape is identified, what uses will be permitted in that area?
- What are the parameters of a conservation lease – such as length, size, etc.?
- If conservation use is to be on equal footing as other uses, why does the Rule state the authorized officers will seek to prioritize actions that conserve over other uses?
- If an oil and gas lessee is paying to produce energy with a royalty to the taxpayer, a hardrock mining claimant is paying claim maintenance fees, and a solar right of way holder is paying rent to produce energy, would a prospective conservation lease holder pay to retire the land from multiple use?
- Would this proposal help the BLM be a better steward of places like overstocked Herd Management Areas and overgrown, wildfire prone areas?
- Could the BLM issue a conservation lease on surface estate when an oil, gas, or hardrock mineral developer has leased or claimed the minerals below that surface?
- Will leaseholders or potential leaseholders be required to obtain a separate conservation lease to offset use of the land?
- Is the BLM pursuing a framework to generate carbon offset credits through conservation leases?
- Would an oil and gas company or mining operator have to obtain a conservation lease or compensatory mitigation to develop minerals already leased or subject to a mining claim below the surface?
- Is active forest management consistent with the BLM’s definition of conservation, as proposed in this Rule?
- Will the Rule affect the ability of the agency to manage its lands to reduce hazardous fuels to respond to wildfire, insects, disease, drought, and/or overstocked and unhealthy forests or rangelands?
- What stakeholders were consulted in the development of the Rule – such as existing leaseholders, stakeholders, state and local BLM staff, and state and local governments?

Republican Response and H.R. 3397

House Natural Resources Committee Republicans have forcefully opposed this Rule through hearings, letters, stakeholder engagement, and questions to the agency. The Committee has held three hearings in the past two months where Members have been able to engage on the Rule. Secretary Haaland appeared before the Committee in April 2023, BLM Director Stone-Manning was before the Energy and Mineral Resources Subcommittee in May 2023, and witnesses shared their opposition to the Rule in May 2023 before the Oversight and Investigations Subcommittee.⁴⁶ As evidenced by recent House Committee on Natural Resources hearings, there

⁴⁶ Committee hearing testimony and recordings can be found at <https://naturalresources.house.gov/calendar/eventslisting.aspx>.

is bipartisan concern about the implementation of this Rule. Members from both sides of the aisle have expressed concern directly to agency officials.^{47 48}

In addition, Committee Republicans have officially submitted 65 questions to the BLM and the Department of the Interior (DOI) about this Rule via three separate hearings over the past two months.⁴⁹ The agency has failed to provide a written response to these questions for the record – missing the deadline on each request. In May 2023, Chairman Westerman sent a letter signed by 13 Members to Secretary Haaland requesting 1) an extension of the comment period on the Rule to 150 days; and 2) for the BLM to hold more in-person listening sessions.⁵⁰ The Congressional Western Caucus, led by Representative Newhouse and Senator Lummis, sent a letter asking the BLM to extend the comment period as well.⁵¹

The BLM held only three in-person listening sessions in densely populated areas – Denver, Colorado; Albuquerque, New Mexico; and Reno, Nevada – on the Rule.⁵² These areas do not adequately represent the stakeholders most likely to be impacted by this Rule. Stakeholders have shared frustration over the BLM’s handling of these listening sessions. Reports include the virtual sessions did not allow for public comments or questions, with one even ending early, and the in-person sessions did not facilitate participation from the audience. Committee Members including Representatives Rosendale,⁵³ Fulcher,⁵⁴ and Hageman,⁵⁵ have all sent letters with their respective state delegations asking for a listening session in their states.

To continue responding to the wide-ranging concern from stakeholders, Representatives Curtis and Fulcher introduced H.R. 3397 to require the Director of the BLM to withdraw the Rule. The bill also prevents the BLM from issuing a substantially similar Rule in the future. The House bill has 16 cosponsors. Senator Barrasso is leading an identical bill in the Senate, S. 1435, with 11 cosponsors.

⁴⁷ Examining the President’s FY 2024 Budget Request for the Department of the Interior, House Natural Resources Committee, April 19, 2023, <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413024>. Specifically see comments from Representatives Fulcher, Lee, and Rosendale.

⁴⁸ Examining the President’s FY 2024 Budget for the Bureau of Land Management and the Office of Surface Mining, Reclamation and Enforcement, House Natural Resources Committee, May 16, 2023, <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=413205>. Specifically see comments from Representatives Lee, Westerman, Fulcher, Rosendale, Lamborn, and Gosar.

⁴⁹ Questions for the Records are one file with the Committee.

⁵⁰ Members Ask DOI to Extend Comment Period on Land Management Rule, Hear From Impacted Communities, Chairman Bruce Westerman, May 17, 2023, <https://naturalresources.house.gov/news/documentsingle.aspx?DocumentID=413290>.

⁵¹ Newhouse, Lummis Demand Extensions of Comment Period on Disastrous Proposed BLM Rule, Congressional Western Caucus, May 17, 2023, <https://westerncaucus.house.gov/news/documentsingle.aspx?DocumentID=4285>.

⁵² Update: BLM Releases Public Meeting Information for Proposed Public Lands Rule, Bureau of Land Management, May 10, 2023, <https://www.blm.gov/press-release/update-blm-releases-public-meeting-information-proposed-public-lands-rule>.

⁵³ Letter on file with the Committee, May 11, 2023.

⁵⁴ Idaho Delegation Calls on BLM for In-Person Meeting on Public Lands Rule, Steve Kiggins, May 13, 2023, <https://fulcher.house.gov/in-the-news?ID=FEE42EB3-2F9C-47DD-9C6C-CEB0B92F3169>.

⁵⁵ Exclusive: Wyoming Congressional Delegation Demands BLM Hear from Those Whom Bureaucrats Want to Ban from Public Land, Tristan Justice, May 17, 2023, <https://hageman.house.gov/media/in-the-news/exclusive-wyoming-congressional-delegation-demands-blm-hear-those-whom>.

IV. MAJOR PROVISIONS & SECTION-BY-SECTION

H.R. 3397 (Rep. Curtis, R-UT), To require the Director of the Bureau of Land Management to withdraw a rule of the Bureau of Land Management relating to conservation and landscape health.

Section 1. Withdrawal of BLM Proposed Rule.

- Requires the Director of the BLM to withdraw the proposed rule entitled “Conservation and Landscape Health.”
- Restricts any action to finalize or implement the proposed rule or any similar rule.

V. COST

H.R. 3397 has not received a formal cost estimate from the Congressional Budget Office (CBO).

VI. ADMINISTRATION POSITION

The administration position is unknown at this time.

VII. EFFECT ON CURRENT LAW (RAMSEYER)

H.R. 3397 has no effect on current law.